IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.9.2007

CORAM

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE R.REGUPATHI

H.C.P.No.814 of 2007

Uma Rani .. Petitioner

Vs.

1. The State of Tamil Nadu
rep. by its Secretary to Government
Prohibition and Excise Department
Fort St.George, Chennai-9.

2. The Commissioner of Police
Greater Chennai, Egmore
Chennai - 600 008. .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue Habeas Corpus to call for the records pertaining to the detenu Nehru, son of Ayyasamy who is detained under Tamilnadu Act 14 of 1982 as a Goonda at Central Prison, Puzhal, Chennai by the second respondent vide her order in Memo No.156/BDFGISSV/2007 dated 10.4.2007 on the file of the second respondent's herein quash the same and direct the respondent to produce Nehru son of Ayyasamy before this Honourable Court and set him at liberty.

For Petitioner : Mr.R.Sankarasubbu
for Mr.V.Devendhiran

For Respondents : Mr.P.Kumaresan
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by P.D.DINAKARAN,J.)

The second respondent herein clamped an order of detention as against the detenu - Nehru, husband of the petitioner, as the said authority arrived at the subjective satisfaction that the said detenu is a Goonda and he has to be detained under Section 3 (1) of the Tamil Nadu Prevention of Dangerous Activities of

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Bootleggers, Drug Offenders, Forest Officers, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

2. Challenging the abovesaid detention, the wife of the detenu has come forward with the present Habeas Corpus Petition seeking a writ of habeas corpus to call for the records pertaining to the detenu, who is detained under Tamil Nadu Act 14 of 1982 as a Goonda at Central Prison, Puzhal, Chennai by the second respondent vide her order in Memo No.156/BDFGISSV/2007, dated 10.4.2007 on the file of the second respondent, to quash the same and to direct the respondents to produce the detenu before this Court and to set him at liberty.

3. The order of detention dated 10.4.2007 came to be passed based on the ground case said to have taken place on 28.3.2007 at about 4.00 Hrs., when one Srinivasan was proceeding to his house, the detenu and one Stephen wrongfully restrained him, threatened to kill him and asked him to hand over the money with him. The detenu took a knife, voluntarily inserted his hand into the shirt of Srinivasan and took away Rs.200/-. The associate of the detenu snatched the Rado wrist watch from Srinivasan. When the detenu and his associate tried to escape, Srinivasan raised hue and cry. The public who were at the spot chased the detenu and his associate. Noticing the same, the detenu and his associate threatened to kill them, they picked up cool drink bottles and hurled the same against the public. The bottles fell on the roadside and broke into pieces. The public ran hither and thither for safer places out of fear of danger to their lives and properties. The traffic was disrupted. Srinivasan lodged a complaint before the Inspector of Police, T7 Tank Factory Police Station and the same was registered in Crime No.120 of 2007 under Sections 341, 427, 336, 392, 397 and 506(2) IPC.

4. The second respondent, taking note of the above case as a ground case and finding that there are eleven adverse cases pending against the detenu, having satisfied that there is a compelling necessity to detain him in order to prevent him from indulging in the activities which are prejudicial to the maintenance of public order, ordered his detention dubbing him as a Goonda.

5. The main contention of Mr.R.Sankarasubbu, learned counsel for the petitioner is that the detention of the detenu was not communicated to his family members.

6. The learned Additional Public Prosecutor invited our attention to the arrest memo, where the receipt for sending telegram to the family members of the detenu was found inserted

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and submitted that the family members of the detenu were communicated about the detention of the detenu.

7. We have perused the materials available on record and given careful consideration to the submissions of both sides.

8. A perusal of the records, in particular, the arrest memo reveals that the receipt for sending telegram has been inserted in it. Neither the contents of the telegram, nor the address to which the telegram was sent were produced before this Court. A mere receipt for sending telegram without producing the contents or the address to which it was sent will not be a substantial evidence to prove that the family members of the detenu were informed about the detention of the detenu and his place of detention.

9. The object and purpose of informing the members of the detenu's household in writing of the passing of the order of detention and taking in custody of the detenu as also the place of detention immediately after the detenu is taken in custody pursuant to the order, is that the family members of the detenu should not be kept in darkness by withholding the information about the passing of the order of detention and the place of detention thereby preventing them from having any access and from rendering any help or assistance to the detenu and similarly the detenu should not be deprived of the privilege of meeting his relations and getting any help or assistance, vide Union of India v. Vasanbharathi, [1990] 2 SCC 275.

10. In the case on hand, no material was produced before us to justify that the family members of the detenu have been informed about the detention of the detenu and his place of detention. If that be so, the order of detention is vitiated. This petition must succeed and the same is ordered as prayed for. The detention order dated 10.4.2007 is set aside. The detenu is directed to be set at liberty forthwith unless his custody is required in connection with any other case.

Sd/-
Asst. Registrar.

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Sub Asst. Registrar.

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To:

1. The Secretary to Government
   Prohibition and Excise Department
   Fort St.George, Chennai - 9.

2. The Commissioner of Police
   Greater Chennai, Egmore
   Chennai - 600 008.

3. The Superintendent, Central Prison,
Puzhal, Chennai.
(In duplicate for communication to detenue)

4. The Joint Secretary to Government
Public (Law and order)
Fort St.George, Chennai.9

5. The Public Prosecutor
   High Court, Madras.

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